



FAIR POLITICAL PRACTICES COMMISSION

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March 8, 2010

Priscilla Araiza, Treasurer

California Alliance for Renewable Energy Sources Committee

REDACTED

✓ Marvin Zadekian, Jr.

California Alliance for Renewable Energy Sources Committee

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Gabriel Moreno

California Alliance for Renewable Energy Sources Committee

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RE: Warning Letter

FPPC Case No. 05/166; California Alliance for Renewable Energy Sources,
ID#1271645, Priscilla Araiza, Marvin Zadekian, and Gabriel Moreno

Dear Messrs. Zadekian and Moreno and Ms. Araiza:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act")¹. As you may be aware, the Commission was investigating the activities of the California Alliance for Renewable Energy Sources Committee ("CARES") based on a complaint received by the Commission. After a full investigation, we have determined that CARES: (1) failed to file periodic campaign statements, (2) failed to properly report an expenditure made for a mailer opposing Richard Rubin, a candidate for Marin County Water Board in 2004, as an independent expenditure instead of a contribution, and (3) failed to include proper sender identification on the mailer. In addition, we have determined that each of you, the treasurers and assistant treasurer of CARES, failed to comply with the duties of a campaign treasurer, as required by the Act.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Under the Act, a person or organization that receives contributions totaling \$1,000 or more in a calendar year to support or oppose state or local candidates or ballot measures qualifies as a "recipient committee" and must have a treasurer. (Sections 82013 and 84100.) A recipient committee may not accept contributions or make expenditures without a treasurer. (Section 84100.) A treasurer may be named as a party in an enforcement action and can be held personally liable for reporting violations. (Sections 83116.5 and 91006.) A committee may appoint one assistant treasurer on its statement of organization to act in place of the treasurer if he or she is unavailable. (Sections 81004 and 84100, Regulation 18426.1.)

Under Sections 81004 and 84100 of the Act and Regulation 18427, a treasurer has duties that include the following:

- A treasurer has the responsibility to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the provisions of the Act.
- A recipient committee must register under the Act by filing a statement of organization (Form 410) within 10 days of receiving contributions totaling \$1,000 in a calendar year. The committee treasurer must sign the form and ensure that it is filed on time.
- On the Form 410, the committee provides basic information about the committee (such as its name, street address, and principal officers) and identifies the individual who will act as the committee's treasurer. If any of the information on the statement of organization changes, the treasurer must file an amendment within 10 days.
- If a committee qualifies during the 16 days before an election, or if certain information about the committee (e.g., the name of the committee, the committee treasurer) changes during that period, an amendment to the statement of organization must be filed within 24 hours.
- The treasurer is responsible for the timely and accurate filing of campaign disclosure reports with the appropriate state and/or local filing officers.
- All documents filed by the treasurer are done under *penalty of perjury*, and the treasurer must use all reasonable diligence in their preparation.
- The treasurer is required to maintain the records personally or monitor committee support staff or others that actually perform the recordkeeping duties.
- The treasurer must also prepare the campaign statements personally or carefully review the campaign statements and underlying records prepared by others.
- If required information is missing, it is the treasurer's responsibility to obtain it.
- The treasurer must also monitor compliance with the Act's restrictions on cash contributions, cash expenditures, and with federal and local campaign laws.
- All reports and statements must be signed by the treasurer or assistant treasurer.

According to the results of our investigation, each of you signed campaign statements as a treasurer or assistant treasurer but did not prepare or review the statements, maintain the records, or monitor compliance with the Act. In fact, none of you had signatory authority for the CARES bank account. Each of you maintains that Christopher Robles, a consultant for CARES, asked you to sign as a "favor" to him, which you did without reviewing any records or statements.

In addition, the Act requires that recipient committees, such as CARES, file campaign statements at periodic intervals until the committee has terminated. Specifically, the Act requires that CARES file semi-annual campaign statements twice per year. (Section 84200.) Although each of you has indicated that Mr. Robles assured you that he would be taking care of all filings, your inattention to the duties of a campaign treasurer has contributed to this lack of committee filings, the improper reporting of a non-monetary contribution and the lack of proper sender identification on the mailers sent out by CARES. However, after a review of the facts and evidence produced by the investigation, and taking into consideration your lack of experience with the Act and lack of involvement with the Committee, the Commission has decided to close this case with this warning letter.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly-discovered information or future conduct. Failure to comply with the provisions of the Act in the future could result in monetary penalties up to \$5,000 per violation.

A warning letter is a Commission resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the Commission will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten (10) days from the date of this letter.

If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

REDACTED

Galena West
Senior Commission Counsel
Enforcement Division